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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/978,504	10/16/2001	Robin Mackay	9419.00	4736

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EXAMINER	
AIRAPETIAN, MILA	

ART UNIT	PAPER NUMBER
3625	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/978,504	MACKAY ET AL.	
	Examiner	Art Unit	
	MILA AIRAPETIAN	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 February 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-54* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-54* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/26/2008 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tran (US 2002/0095368) in view of Arora et al. (US 2002/0032638), further in view of Hayes (US 2002/0138399).

Claim 1. Tran teaches a computer-implemented method for on-line auction, the method comprising:

a first user terminal generating an offer to sell or to buy an item in accordance with first offer criteria (Fig. 1, [0009]);

a second user terminal generating an offer to buy or to sell a corresponding item in accordance with second offer criteria (Fig. 1, [0009]);

comparing the offer criteria to match an offer to sell and an offer to buy if any or all of their criteria match ([0008], [0022], "matching the investor's/user's identified interests");

in response to a match between the offers, opening a peer to peer communication channel between the user terminals that made the matching offers ([0008], ("*chat rooms*" indicates peer to peer network, [0009], [0021], [0029]), displaying at a buyer terminal a seller match interface, the match interface presenting details of the matching offer that was generated by the seller terminal and providing a mechanism for choosing to participate in an auction for the item for which an offer was generated by the seller terminal [0028], [0017]; and

upon selection by a buyer to participate in the auction, conducting an auction between those user terminals via the communication channel [0009].

While Tran teaches matching buyers and sellers, Tran does not explicitly teach comparison being accomplished by evaluation of corresponding fields in buyer and seller offer specification forms generated by the first and second terminals.

Arora et al. (Arora) teaches a computer-implemented method for matching two or more entities wherein discrete descriptors provide buyers and sellers specific options (descriptor values) which are evaluated as matching or not matching [0124].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Tran to include comparison being accomplished by evaluation of corresponding fields in buyer and seller offer specification forms generated by the first and second terminals, as disclosed in Arora, because it would advantageously allow to accurately and effectively match two or more entities in a transaction to optimize the compatibility of the match, as specifically taught by Arora [0007].

However, the combination of Tran and Arora does not teach that said matching include context vector matching technique.

Official Notice is taken that it is old and well known to use context vector matching technique (see also, the enclosed reference US 6,236,991). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Tran, Arora and Hayes to include that said matching include context vector matching technique, because it would advantageously allow for a faster comparisons as opposed to string comparisons.

Tran also does not teach that said seller terminal acting as a server.

Hayes et al. (Hayes) teaches a computer-implemented method for using a peer-to-peer trading network wherein a seller and a buyer trade with each other on a peer-to-peer basis ([0039], [0041], [0049]; each participant/node in a peer-to-peer environment can act as a server or as a client; in this case a seller terminal offering goods can act as a server).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Tran to include that said seller terminal acting as a server, as disclosed in Hayes, to allow each participant, small and large, powerful and weak, has the same access and visibility to every other participant and enjoy the full benefit of the network effect, as taught by Hayes [0041].

Further, it is noted that all of the elements of the cited references perform the same function when combined as they do in the prior art. Thus such a combination would have yielded predictable results (see Sakraida, 425 US at 282, 189 USPQ at 453). Since the independent claims only unite old elements with no change in there respective functions the claimed subject matter would have been obvious under KSR, 127 S. Ct at 1741, 82 USPQ2d at 1396.

Claim 2. Tran teaches said method, further comprising using the criteria of an offer to search for offers with matching criteria [0022], "*match the investor's identified interests*".

Claim 3. Tran teaches said method, wherein the search is conducted on a central database accessible by the user terminals, to which database the offers are transmitted [0029].

Claim 4. Tran teaches said method, wherein the database is associated with a server to which the user terminals are clients [0014].

Claim 5. Tran teaches said method, wherein comparison and matching of offer criteria are performed at the server end [0022].

Claim 6. Tran teaches said method, wherein the search is conducted across the communications network of which the user terminals are a part [0014].

Claim 7. Tran teaches said method, wherein an offer is broadcast by a user terminal to other user terminals on the network [0021].

Claim 8. Hayes teaches said method for trading in a peer-to-peer environment wherein an offer is sent by a user terminal to a group of other user terminals defined by the sending user terminal [0067], [0077], [0041].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Train to include that an offer is sent by a user terminal to a group of other user terminals defined by the sending user terminal, as disclosed in Hayes, because it would advantageously allow to send offers to specific or preferred group of people, for example, located within a 10-mile radius, as specifically taught by Hayes [0117].

Claim 9. See reasoning applied to claim 8.

Claim 10. Tran teaches said method, wherein comparison and matching of offer criteria are performed by a user terminal that receives an offer from another user terminal [0009].

Claim 11. Tran teaches said method, wherein the received offer is compared with an offer generated by and stored by the user terminal that receives the offer [0009].

Claim 12. Tran teaches said method, wherein an offer is stored in readiness for comparison and matching with a subsequent offer [0029].

Claim 13. Tran teaches said method, wherein the offer is stored for a timeout period [0010].

Claim 14. Tran teaches said method, wherein the offers are generated by software agents resident on the respective user terminals [0009].

Claim 15. Tran teaches said method, wherein a software agent searches for matching offers across the communications network ([0008], [0009], [0029].

Claim 16. Tran teaches said method, wherein a software agent receives, compares and matches offers ([0008], [0009], [0029]).

Claim 17. Tran teaches said method, wherein a software agent opens the peer to peer communication channel between user terminals in response to a match between offers ([0008], "*chat rooms*" [0009], [0029].

Claim 18. Tran teaches said method, wherein a software agent creates an auction on a user terminal [0009].

Claim 19. Tran teaches said method, wherein the software agent runs the auction as a background task on the desktop of the user terminal [0027].

Claim 20. Tran teaches said method, wherein a seller agent makes an offer to sell an item [0009].

Claim 21. Tran teaches said method, wherein the seller agent receives bids for the item on its user's behalf [0009], [0006].

Claim 22. Tran teaches said method, wherein the seller agent responds to bids automatically on its user's behalf [0009], [0006].

Claim 23. Tran teaches said method, wherein the seller agent responds to bids in accordance with real time instructions of its user [0009], [0006].

Claim 24. Tran teaches said method, wherein a buyer agent makes an offer to buy an item [0009].

Claim 25. Tran teaches said method, wherein the buyer agent bids for an item during the auction [0009].

Claim 26. Tran teaches said method, wherein the buyer agent bids automatically on its user's behalf [0009].

Claim 27. Tran teaches said method, wherein the buyer agent conveys bids in response to real time bidding instructions of its user [0009].

Claim 51 and 52 are rejected on the same rationale as set forth above in claims 1 and 2.

System claims 28-50, 53 and 54 repeat the subject matter of method claims 1 and 2 respectively, as a set of apparatus elements rather than a series of steps. As the underlying processes of claims 1 and 2 have been shown to be fully disclosed by the teachings of Tran, Arora and Hayes in the above rejections of claims 1 and 2, it is

readily apparent that the system disclosed by Tran, Arora and Hayes includes the apparatus to perform these functions. As such, these limitations are rejected for the same reasons given above for method claims 1 and 2, and incorporated herein.

Response to Arguments

Applicant's arguments with respect to claims 1, 28, 51and 53 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mila Airapetian whose telephone number is (571) 272-3202. The examiner can normally be reached on Monday-Friday 9:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on (571) 272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeffrey A. Smith/

Supervisory Patent Examiner, Art Unit 3625

/M. A./

Examiner, Art Unit 3625